

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on November 10, 2009, which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-23 are pending in this application, where claims 1 and 10 are independent.

In the Final Office Action, claims 1-23 are rejected under 35 U.S.C. §112, second paragraph for a certain informality. Applicants respectfully traverse this rejection. However, in the interest of advancing prosecution, independent claims 1 and 10 have been amended for better clarity and to remove the alleged informality. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 1-23 are rejected under 35 U.S.C. §102(e) over U.S. Patent No. 7,024,534 (Sasaki). Applicants respectfully traverse and submit that claims 1-23, as amended, are

patentable over Sasaki for at least the following reasons.

Sasaki has 23 figures and 36 columns of text qualifying this patent as "complex". Therefore pursuant to 37 CFR 1.104, the Examiner must indicate how the reference is being applied. The indicated section of Sasaki, namely, FIGs 21-22, merely shows a data structure of a conventional DVD-RAM disc in FIG 21, and FIG 22 shows a block diagram illustrating a structure of an information recording and reproduction apparatus using a conventional DVD-RAM disc.

Since Sasaki is complex, Applicants will confine their remarks to those portions cited by the Examiner, except as otherwise indicated. Applicants make no representation as to the contents of other portions of the references.

In particular, Sasaki is directed to providing an information recording apparatus where data is recorded sequentially from an unallocated area after an entry sector number. Data recording is sequentially repeated from an inner portion to an outer portion. FIG 21 shows a data structure of a rewritable disc having a defect management area 1003 that includes a DMA (Defect Management Area)

1004 for managing a defect. A spare area 1005 is provided in which the content of the data which is to be recorded in the defect area is substitutively recorded.

On page 4, line 16 of the Final Office Action, the defect management area 1003 is analogized to the general application area recited in independent claims 1 and 10.

It is respectfully submitted that Sasaki does not teach or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 10 which, amongst other patentable elements, recites (illustrative emphasis provided):

a general application area outside the user area and outside the spare area for recording second file system data comprising directory and file entries pointing to the user data according to rules of a second file system, the second file system data being different from the first file system and comprising further data that does not allow replacements by the defect management, ...

wherein the control means are adapted to increase a storage space for the second file system data by marking in the defect table a part of the medium as unusable for the first file system, adding the part of the medium marked as unusable to the general application area, and recording a part of the second file system data in the part of the medium marked as unusable.

A general application area for recording second file system

data and includes further data that does not allow replacements by the defect management, and increasing the storage space for the second file system data by adding the part of the medium marked as unusable to the general application area, as recited in independent claims 1 and 10, are nowhere disclosed or suggested in Sasaki. Sasaki does not disclose or suggest that the defect management area 1003, or any other area, is increased by adding to such an area any part of the medium marked as unusable.

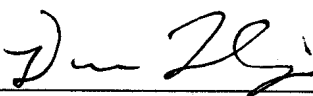
Accordingly, it is respectfully requested that independent claims 1 and 10 be allowed. In addition, it is respectfully submitted that claims 2-9 and 11-23 should also be allowed based at least on their dependence from independent claims 1 and 10 as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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